

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	Criminal No. 1:00-CR-000290
	:	
v.	:	(Chief Judge Kane)
	:	
CESAR VELAZQUEZ	:	(Electronically Filed)

MOTION FOR RELIEF UNDER 18 U.S.C. § 3582(c)

AND NOW comes Cesar Velazquez, by his attorney, Thomas A. Thornton, of the Federal Public Defenders Office, and files this Motion for Relief Under 18 U.S.C. § 3582(c). In support thereof, it is averred as follows:

1. On October 18, 2000, a Grand Jury sitting in the Middle District of Pennsylvania returned a five count Indictment charging Cesar Velazquez with conspiracy to commit drug trafficking. Specifically the conspiracy involved distribution and possession with the intent to distribute 50 grams or more of cocaine base a/k/a “crack” in violation of 21 U.S.C. § 846.

2. Cesar Velazquez appeared before this Honorable Court on December 11, 2000 and entered a plea of guilty to Count One of a Superseding Indictment charging the same conspiracy to distribute cocaine base offense.
3. The Court ordered the preparation of a presentence report.
4. The 2000 edition of the United States Sentencing Guidelines Manual was used to calculate Cesar Velazquez's sentencing guideline range.
5. The presentence report provides that Cesar Velazquez was accountable for between 631.1 grams of cocaine base.
6. The presentence report listed the base offense level as 36. The offense level was increased by two levels for possession of a weapon and reduced by three levels for acceptance of responsibility. This resulted in a final offense level of 35.
7. Cesar Velazquez was found to be a career offender and was assigned a criminal history category of VI.

8. Cesar Velazquez's sentencing guideline range was 292 - 365 months. This range was taken from the crack cocaine guideline because it exceeded the career offender guideline of 37.
9. After awarding credit for acceptance of responsibility, the court adopted the findings of the presentence report.
10. On May 10, 2001, this Honorable Court sentenced Cesar Velazquez to a term of imprisonment of 240 months. This represented an approximate 19 percent reduction from the bottom of the guideline range based on a substantial assistance motion from the Government.
11. Cesar Velazquez is serving this sentence at FCI McKean.
12. Cesar Velazquez's projected release date is March 25, 2018.
13. On November 1, 2007, the United States Sentencing Commission amended the Drug Quantity Table and reduced the offense level for an offense involving 631.1 grams of cocaine base by 2 levels to a level 36. (Amendment 706).

14. On December 12, 2007, the United States Sentencing Commission announced its decision to apply the amendments to the crack guidelines retroactively effective March 3, 2008 and listed Amendment 706 in the new U.S.S.G. § 1B1.10 (c).

15. Pursuant to 18 U.S.C. § 3582(c)(2), “in the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission . . . upon motion of the defendant . . . the court may reduce the term of imprisonment, after considering the factors set forth in section 3553(a) to the extent that they are applicable, . . . .”

16. Under the retroactive application of the amendment to the sentencing guidelines, Cesar Velazquez’s total offense level is 34 and with a 2 level increase for gun possession and a 3 level reduction for acceptance of responsibility, the final offense level is 33.

17. An offense level of 33 and a criminal history category of VI results in a now advisory guideline imprisonment range of 235 to 293 months.

18. However, the application of the reduction brings the career offender guideline back into play. This results in Mr. Velazquez beginning with a level 37 and thereafter receiving a 3 point reduction for acceptance of responsibility.

19. Under the career offender guideline the final result (34 and VI) is 262 months to 327 months.

20. A 19 percent reduction from the bottom of that range for substantial assistance yields a sentence of approximately 212 months.

21. Because Cesar Velazquez had been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission, he moves this Honorable Court to reduce the term of imprisonment in accordance with 18 U.S.C. § 3582(c)(2).

22. Defense counsel has communicated with Acting United States Attorney Martin C. Carlson who indicated that he would be filing a separate response .

WHEREFORE, it is respectfully requested that this Honorable Court grant the foregoing Motion for Relief Under 18 U.S.C. § 3582(c).

Respectfully submitted,

Date: April 15, 2008

/s/ Thomas A. Thornton

THOMAS A. THORNTON, ESQUIRE

Federal Public Defender

Attorney ID #PA44208

100 Chestnut Street, Suite 306

Harrisburg, PA 17101

Tel. No. (717) 782-2237

Fax No. (717) 782-3881

<Thomas A. Thornton@fd.org>

Attorney for Cesar Velazquez

**CERTIFICATE OF SERVICE**

I, Thomas A. Thornton, Federal Public Defender for the Middle District of Pennsylvania, do hereby certify that I served a copy of the foregoing **MOTION FOR RELIEF UNDER 18 U.S.C. § 3582(c)(2)**, via Electronic Case Filing, or by placing a copy in the United States mail, first class in Harrisburg, Pennsylvania, addressed to the following:

Martin C. Carlson, Esquire

[REDACTED]  
[REDACTED]  
[REDACTED]

Drew Thompson

[REDACTED]  
[REDACTED]  
[REDACTED]

Cesar Velazquez

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Date: April 15, 2008

/s/ Thomas A. Thornton

THOMAS A. THORNTON, ESQUIRE

Federal Public Defender

Attorney ID #PA44208

100 Chestnut Street, Suite 306

Harrisburg, PA 17101

Tel. No. (717) 782-2237

Fax No. (717) 782-3881

<Thomas A. Thornton@fd.org>

Attorney for Cesar Velazquez